IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15614 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TAHIRHUSSAIN HAJI FAKIRMOHEMM-ED MEMAN - Petitioner(s)

Versus

DEPUTY COLLECTOR (STAMP DUTY VALUATION) & 1 - Respondent(s)

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Appearance :
MR MA KHARADI for Petitioner(s) : 1,
MS. ARCHNA RAVAL, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1 - 2.
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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 21/12/2005

ORAL JUDGMENT

1.In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality

and validity of the order passed by the Chief Controlling Revenue Authority, Gandhinagar dated 21.5.2005 passed in stamp appeal No.32-B-160/01 in dismissing the same and confirming the order passed by the Deputy Collector, Stamp Duty Valuation, Himatnagar dated 22.12.2000 passed under Section 32-A of the Bombay Stamp Act with respect to the document registration No.962 dated 11.5.2000 presented before the Sub-Registrar, Idar.

2. It appears from the record that being aggrieved and dissatisfied with the order passed by the Deputy Collector, Stamp Duty Valuation, Himatnagar dated 22.12.2000 passed under Section 32-A of the Bombay Stamp Act with respect to the document registration No.962 dated 11.5.2000 presented before the Sub-Registrar, Idar directing the petitioner to pay the deficit stamp duty of Rs.17,235/- plus Rs.250/-by way of penalty i.e. in all Rs.17,485/-, the petitioner has preferred the appeal under Section 32-A of the Bombay Stamp Act before the Chief Controlling Revenue Authority being stamp appeal No.32-B-160/01 and the appellate authority by its order dated 21.5.2005 dismissed the said appeal confirming the order passed

by the Deputy Collector, Stamp Duty Valuation, Himatnagar.

3.Shri Kharadi, learned advocate appearing on behalf of the petitioner has submitted that apart from the merits of the case the impugned order passed by the appellate authority is non-speaking and no reason has been assigned for not accepting the contention on behalf of the petitioner and confirmed the order passed by the Deputy Collector, Stamp Duty Valuation, Himatnagar.

4.In response to the same, Ms. Archna Raval, learned AGP while supporting the order passed by the appellate authority has submitted that as the appellate authority has observed that he has gone through the order passed by the Deputy Collector and as the same is not required to be interfered with as the same is in accordance with law and the procedure adopted by the Deputy Collector is just and regular and therefore, it is requested to dismiss the present Special Civil Application.

5.Heard the learned advocates appearing on behalf of the parties.

6.The main contention of the petitioner is that the impugned order passed by the appellate authority is non-speaking and non-reasoning and the contentions which are raised on behalf of the petitioner are not dealt with and if they are dealt with, the same are not reflected in the impugned order. This Court has gone through the order passed by the appellate authority dated 21.5.2005 and except observing that the Deputy Collector has passed the impugned order after giving an opportunity to the petitioner and that the documentary evidences produced are not clear, nothing further has been mentioned by the appellate authority. The contentions which are submitted on behalf of the petitioner appears to have not been considered and even if they are considered, on going through the order passed by the appellate authority, the same are not reflected in the order. Under the circumstances, the impugned order passed by the appellate authority is non-speaking and non-reasoning order and what has weighed with the appellate authority while dismissing the appeal and confirming the order passed by the Deputy Collector is not mentioned in the order. Under the circumstances, the impugned order passed by the appellate authority is required to be quashed and set

aside and the matter is required to be remanded to the appellate authority i.e. Chief Controlling Revenue Authority, Gandhinagar for deciding the same afresh in accordance with law and on merits and to pass a speaking and reasoned order dealing with all the contentions raised on behalf of the petitioner. Such an exercise is to be done within a period of 3 months from the date of receipt of this order.

7. For the reasons stated above, the petition succeeds in part. The order passed by the Chief Controlling Revenue Authority, Gandhinagar dated 21.5.2005 passed in stamp appeal No.32-B-160/01 is hereby quashed and set aside and the matter is remanded to the Chief Controlling Revenue Authority for deciding the same afresh in accordance with law and on merits and after giving an opportunity to the petitioner and to pass a speaking and reasoned order dealing with all the contentions submitted on behalf of the petitioner within a stipulated time. It is, however, made clear that this Court has not expressed any opinion on the merits of the case and only on the ground that the appellate authority has passed non-spaking and non-reasoned order, the same is quashed and set aside.

8.Rule is made absolute to the aforesaid extent, however, there will be no order as to costs.

(M.R.SHAH, J.)

kdc.